



राजपत्र, हिमाचल प्रदेश

(प्रसाधारण)

हिमाचल प्रदेश राज्यपालन द्वारा प्रकाशित

शिमला, सोमवार, 20 नवम्बर, 1978/29 अक्तूबर, 1978

हिमाचल प्रदेश सरकार

ELECTION DEPARTMENT

NOTIFICATION

Simla-171002, the 21st October, 1978

No. 7-9/78-Elec.—In exercise of the powers conferred by section 163 of the Himachal Pradesh Panchayati Raj Act, 1968 (Act No. 19 of 1970), the Governor, Himachal Pradesh, proposes to make the following amendments in the Himachal Pradesh Panchayat Samitis (Elections) Rules, 1973, published in the Rajpatra, Himachal Pradesh (Extra-ordinary), dated 7th August, 1973, vide this Government notification No. 7-4/73-Elec., dated 25th July, 1973 and the same are hereby published in the official gazette for the information of the persons likely to be affected thereby and a notice is hereby given that these draft rules will be taken into consideration after the expiry of the period of 15 days from the date of the publication of this notification in the Rajpatra, Himachal Pradesh.

If any person likely to be affected thereby desires to take any objection, or has any suggestion to make, regarding these proposed amendments, he can send the same to Secretary (Elections) to the Government of Himachal Pradesh within the time specified above. The objections or suggestions, if any, so received, will be taken into consideration before making the proposed amendments in the aforesaid rules;—

DRAFT OF PROPOSED AMENDMENTS

1. *Short title and commencement.*—(1) These rules may be called the Himachal Pradesh Panchayat Samitis (Election (Second Amendment) Rules, 1978).

2. *Amendment of Rule 2.*—They shall come into force at once.

(2) In clause (c) of sub-rule (1) of rule (2) of the Himachal Pradesh Panchayat Samitis (Election) Rules, 1973 (hereinafter called the “said rule”) For the words “Primary Members of Panchayat Samiti” the words “a Primary member of a Panchayat Samitis” shall be substituted.

3. *Amendment of Rule 3.*—For the existing sub-rule (1) of rules 3 of the said rules, the following sub-rule (1) of the said rules shall be substituted, namely:—

“(1) As soon as the notification of the constitution of a Panchayat Samiti is issued under sub-section (1) of section 61 of the Act, the Deputy Commissioner shall, where the number of the Gram Panchayats in a block is more than 20, divide the Gram Panchayats of a block into twenty constituencies having one or more Gram Panchayat for election of Primary Members for a Panchayat Samiti:

Provided that while forming the constituencies in the manner so prescribed, the contiguity of the Jurisdictional area of Panchayat shall be maintained and as far as practical be the electors shall also be divided equally into such constituencies;

Provided further that before issuing final order under this rule the Deputy Commissioner shall hear objections, if any, in this behalf for which a public notice shall be, given”.

4. *Amendment of rule 7.*—In rule 7 of the said rules the sign “.” occurring at the end shall be substituted with the sign “.” and the existing proviso occurring there after shall be omitted.

5. *Amendment of rule 14.*—In rule 14 of the said rules:

(a) the figures “30” and “15” occurring in sub-rule (1) shall be substituted with the figures “100” and “50” respectively; and

(b) the words “divided by number of seats in the constituency” occurring in sub-rule (2) shall be omitted;

6. *Substitution of rule 18.*—For the existing rule 18 of the said rules, the following rule 18 shall be substituted namely:—

18. If there is only one contesting candidate in a constituency he shall be deemed to have been elected from that constituency and the declaration of result shall be made, immediately, after the time fixed for withdrawal of candidature in Form VI, a copy of which shall be pasted outside his office. In a case where for a constituency no nomination paper has been filed or no validly nominated candidate exists to fill the seat in the constituency, the Deputy Commissioner shall prepare another election programme in the constituency under rule 12 for filling up such vacancy.”

7. *Amendment of rule 20.*—In rule 20 of the said rules for the word “balloting”, the word “marking” shall be substituted.

8. *Substitution of rule 26.*—For the existing rule 26 of the said rules, the following rule 26 shall be substituted, namely:—

“26(1). Immediately before the commencement of the poll, the Presiding Officer, shall demonstrate to the candidates and the election agents present that the ballot box is empty and bears labels both inside and outside containing the following particulars:—

(a) the serial number, if any, and name of the constituency along with the name of Panchayat Samiti;

- (b) the serial number and name, of polling station;
- (c) serial number of ballot box (to be filled in at the end of the poll on the label outside the ballot box); and
- (d) the date of poll.

(2) The ballot box shall be closed, sealed and secured in such manner that the slit for the insertion of ballot papers remains open. The candidates or the election agents who are present may also affix, if they so desire, their seals and ballot box shall be placed in full view of the Presiding Officer, candidates and the election agents."

9. *Amendment of rule 28.*—For existing Clause (c) of Rule 28 of the said Rules, the following clause (c) shall be substituted, namely:—

"(C) the Deputy Commissioner or such other persons as may be authorised by him."

10. *Substitution of rule 29.*—For the existing rule 29 of the said rules the following rule 29 shall be substituted, namely:—

"29(1) As soon as the elector enters the polling station, the polling officer-in-charge of the electoral roll shall ascertain the elector's name and address and such other particular as appears on the electoral roll of the constituency by reading the same loudly so that the candidates or their agents may listen the particulars, and if there as no challenge, as regards the identity of the elector the Presiding Officer-in-charge of the ballot paper shall supply to the elector a ballot paper. The Presiding Officer-in-charge of the ballot papers at the time of delivery of the ballot paper, shall record the serial No. of the elector in the electoral roll on the counterfoil of the ballot paper and entry in the marked copy of electoral roll shall be underlined.

(2) No other person at the polling station shall note down the serial number of the ballot paper issued to a particular elector.

(3) Every ballot paper before issue to an elector shall be signed by the Presiding Officer in full with date on its back.

(4) On receiving the ballot paper, the elector shall forthwith:—

- (a) proceed to the voting compartment;
- (b) make a mark on the ballot paper with the instrument supplied for the purpose on or near the symbol of the candidate for whom he intends to vote;
- (c) fold the ballot paper(s) so as to conceal his vote;
- (d) insert the folded ballot paper into ballot box; and
- (e) quit the polling booth/station.

(5) No elector shall remain inside the compartment for more than the time reasonably required to mark the ballot paper."

11. *Substitution of rule 30.*—For existing rule 30 of the said rules, the following rule 30 shall be substituted, namely:—

"30 (1). If the Presiding Officer is satisfied that owing to blindness or other physical infirmity an elector is unable to recognise the symbol on the ballot paper or to make a mark thereon without assistance the Presiding Officer shall permit the elector to take with him a companion of not less than twenty-one years of age to the voting compartment for recording the vote on the ballot paper on his behalf and in accordance with his wishes, and if necessary, for folding the ballot paper so as to conceal the vote and inserting it into the ballot box;

Provided that no person shall be permitted to act as the companion of more than one elector at any polling station on the same day:

Provided further that before any person is permitted to act as the companion of an elector on any day under this rule, the person shall be required to declare in writing that he will keep secret the vote recorded by him on behalf of the elector and that he has not already acted as the companion of any other elector at any polling station on that day.

(2) The Presiding Officer shall keep a brief record of all such instances."

12. *Omission of rules 33 & 34.*—Rules 33 and 34 of the said rules shall be omitted.

13. *Substitution of rule 35.*—For existing rule 35 of the said rules, the following rule 35 shall be substituted, namely:—

"35. The Presiding Officer, at the conclusion of the poll, shall keep in separate covers, which shall be sealed, the following papers:—

- (1) marked copy of electoral roll;
- (2) other copies of electoral rolls;
- (3) list of challenged votes;
- (4) ballot paper account;
- (5) unused ballot papers with counterfoils;
- (6) cancelled ballot papers including returned ballot papers;
- (7) counterfoils of used ballot papers; and
- (8) other miscellaneous record prepared by the Presiding Officer including appointment of agents etc. or as directed by the Director of Elections (Local Bodies)."

14. *Substitution of rule 40.*—For existing rule 40 of the said rules, the following rule 40 shall be substituted, namely:—

"40 (1) The Returning Officer/Assistant Returning Officer on the date, time and place fixed under rule 12, shall start the counting of votes in the following manner:—

- (i) Take out the ballot box polling station-wise according to their serial number and allow an opportunity to candidates or their election agents to inspect the ballot box and the seals to satisfy themselves that they are intact;
- (ii) After each ballot box is opened, the candidates or election agents who may be present shall be allowed to inspect the ballot box and satisfy themselves that it bears the proper label inside the ballot box.
- (iii) The ballot papers in each box will be taken out and the empty ballot box be shown to the candidates or election agents for their satisfaction that no ballot paper has been left in the box.
- (iv) The ballot papers taken out of each box shall be sorted out candidatewise and counted after tallying with the ballot paper account.

(2) The Returning Officer/Assistant Returning Officer shall reject a ballot paper;

- (a) if votes are given in favour of more than one candidate; or
- (b) if it bears any mark, or writing by which the elector can be identified; or
- (c) if no vote is recorded thereon; or
- (d) if the mark indicating the vote thereon is placed in such manner as to make it doubtful to which candidate the vote has been given; or
- (e) if it is spurious ballot paper, or
- (f) if it is so damaged or mutilated that its identity as a genuine ballot paper cannot be established; or
- (g) if it bears a serial No. or is of a design, different from the serial number or, as the case may be, design of ballot paper authorised for use at the polling station:

Provided that a ballot paper shall not be rejected merely on ground, that the mark indicating the vote is indistinct or made more than once, if the intention, that the vote shall be for particular candidate clearly appears from the way the paper is marked,

- (3) The Returning Officer/Assistant Returning Officer before rejecting any ballot paper under sub-rule (2) shall allow each candidate, and the election agent present, a reasonable opportunity to inspect the ballot paper but shall not allow him to handle it or any other ballot paper.
- (4) The Returning Officer/Assistant Returning Officer shall record on every ballot paper which he rejects the letter "R" and the grounds of rejection in brief in his own hand with his initial.
- (5) All ballot papers rejected under this rule shall be bundled together.
- (6) After counting of all the votes of a candidate is completed, the Returning Officer/Assistant Returning Officer shall fill in part-II Result of counting in Form-VII against the name of the candidate.
- (7) After completing the counting of votes of all candidates in a constituency, the Returning Officer/Assistant Returning Officer shall sign the ballot paper account."

15. *Amendment of rule 42.*—In rule 42 of the said rules, for the words and sign "or candidates according to the number of seat or seats fixed for election of the constituency who is/are found", the words "who is found" shall be substituted.

16. *Substitution of rule 43.*—For the existing rule 43 of the said rules, the following rule 43 shall be substituted, namely:—

"43. After the result is declared, the Returning Officer/Assistant Returning Officer shall keep candidate-wise valid ballot papers in bundles together with the bundle of rejected ballot papers in a separate packet outside of which the particulars of such a document shall be recorded, i.e. name or number of the constituency along with the name of the Panchayat Samiti, place and date of counting and shall be sealed with his seal".

17. *Amendment of rule 49.*—For the existing paras (b), (c) and (d) of clause (iii) of rule 49 of the said rules, the following paras (b), (c), (d) and (e) shall be substituted, namely:—

- "(b) The voter on receipt of the ballot paper shall enter the voting compartment and mark the ballot paper with the instrument supplied for the purpose, on or near the symbol of the candidate to whom he intends to vote;
- (c) After the voter has marked the ballot paper he shall fold the ballot paper so as to conceal his vote.
- (d) After the voter has marked and folded the ballot paper he shall insert the ballot paper into the ballot box and quit the polling station.
- (e) The spoilt and returned ballot papers at such an election shall be dealt with in the same manner as is prescribed in rule 32".

18. *Substitution of rule 50*—For existing rule 50 of the said rules, the following rule 50 shall be substituted namely:—

"50(1) After the voting is completed, the officer presiding over the meeting shall take out all the ballot papers from the ballot box and sort them out candidate-wise and shall count the votes found in the ballot box of each candidate in the manner as prescribed in rule 40. On completion of the counting of votes in respect of all the ballot boxes of the contesting candidates, the officer presiding over the meeting shall compile the result and declare the candidate elected for the office of chairman in whose favour the highest number of votes have been cast:

Provided that if equality of votes is found between the candidates, the officer hereto fore referred in this chapter as the officer presiding shall decide the election by lot.

(2) The provision of sub-rule (1) shall apply mutatis mutandis in relation to the counting of votes at the election of Vice-Chairman.

(3) After the result is declared, the Officer Presiding over the meeting shall keep candidate wise valid ballot papers in bundles together with the bundle of rejected ballot papers in separate packet outside which the full particulars of such documents shall be recorded and the packets sealed with his seal. All other papers relating to the election shall also be kept in separate packets and the contents of each such packet shall be recorded thereupon. The Officer Presiding over the meeting shall, after completion of the election, deliver the entire record relating to such an election to the Deputy Commissioner or any other person authorised by him, in writing for this purpose."

19. *Amendment of rule 63.*—In sub-rule (1) of rule 63 of the said rules, for the words and figures "declaration of result under rule 18 or rule 42 or rule 49(1) or rule 50, as the case may be", the words and figures "notification of result under rule 45 or rule 54, as the case may be" shall be substituted.

20. *Amendment of Rule 64.*—In sub-rule (2) rule 64 of the said rules the words "or Commissioner of oaths" shall be omitted.

21. *Substitution of form VII.*—For the existing form VII to the said rules the following form VII shall be substituted, namely:—

FORM VII

[See rules 21(2), 40(6) and 41 (5)]

PART I

BALLOT PAPER ACCOUNT

Election to the Panchayat Samiti from the.....constituency of a Block in..... district.

No. and name of polling station.....

	Serial numbers	Total Numbers
1. Ballot papers received.....		
2. Ballot papers not used.....		
3. Ballot papers issued to voters.....		
4. Ballot papers cancelled.....		

Date.

Signature of Presiding Officer.

PART II

RESULT OF COUNTING

Sr.No. 1	Name of candidate 2	No. of valid votes, cast 3
1.		Polling station No.....
2.		
3.		
4.		
Etc.		
Rejected ballot papers.....		
Total No. of ballot papers found in the ballot box.....		
.....		

1	2	3
		Polling station No.....
1.		
2.		
3.		
4.		
Etc.		
Rejected ballot papers.....		
Total No. of ballot papers found in the ballot box.....		
.....		

1.	
2.	
3.	
4.	
etc.	
Rejected ballot papers.....	
Total No. of ballot papers found in the ballot box.....	

Candidate-wise total No. of valid votes of entire constituency:

- 1.
- 2.
- 3.
- 4.
- etc.

Total No. of rejected ballot papers.....

Total No. of ballot papers cast in the entire constituency.

Date.....

.....
Signature of Returning/Assistant
Returning Officer.

Strike out the portion which is not required.

PART III

DECLARATION OF RESULT

I declare that:—

.....(Name)

of.....(Address)
 has been duly elected to fill the seat in the Panchayat Samiti from the above constituency of the
 above Block.

Place.....

Date.....

Returning/Assistant Return Officer.

22. *Amendment of from IX.*—The Form IX to the said rules, the words “Magistrate 1st Class/Commissioner of oaths” wherever these occur the words “Executive Magistrate” shall be substituted.

By order,
 H. S. DUBEY,
Secretary.